## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION CIVIL CASE NO. 1:20-cv-00155-MR

CHRISTOPHER LEE MICHELSON,	)
Plaintiff,	)
vs.	)
WELLPATH, et al.,	ORDER
Defendants.	) )

**THIS MATTER** is before the Court sua sponte.

The *pro* se Plaintiff filed this action pursuant to 42 U.S.C. § 1983 while he was a pretrial detainee at the Buncombe County Detention Facility. <sup>1</sup> [Doc. 1]. The Amended Complaint passed initial review on a claim of deliberate indifference to a serious medical need against Defendant Colby Dodd. [See Doc. 19]. On August 2, 2021, the Plaintiff was instructed to fill out and return a summons form so that Defendant Dodd could be served. [Id.]. He failed to comply. On September 9, 2021, the Court ordered the Plaintiff to return the completed summons form within 10 days. [Doc. 20]. The Plaintiff was

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<sup>&</sup>lt;sup>1</sup> The Plaintiff is no longer incarcerated.

cautioned that, should he fail to timely comply with the Order, the action would be dismissed without prejudice and closed without further notice. [Id.].

Plaintiff has failed to respond to the September 9 Order, and the time

to do so has expired. Plaintiff appears to have abandoned this action, and

the Court is unable to proceed. This case will therefore be dismissed without

prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to

comply with these rules or a court order, a defendant may move to dismiss

the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626,

630-33 (1962) (although Rule 41(b) does not expressly provide for sua

sponte dismissal, Rule 41(b) does not imply any such restriction and a court

has the inherent power to dismiss a case for lack of prosecution or violation

of a court order).

IT IS, THEREFORE, ORDERED that this action is DISMISSED

WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court is directed to

terminate this action.

IT IS SO ORDERED.

Signed: October 26, 2021

Martin Reidinger

Chief United States District Judge